

ESTTA Tracking number: **ESTTA667383**

Filing date: **04/17/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91219070
Party	Defendant Dropbox, INC.
Correspondence Address	JOHN L SLAFSKY WILSON SONSINI GOODRICH & ROSATI 650 PAGE MILL RD PALO ALTO, CA 94304-1050 UNITED STATES trademarks@wsgr.com, jslafsky@wsgr.com, sbrannen@wsgr.com
Submission	Motion to Suspend for Civil Action
Filer's Name	John L. Slafsky
Filer's e-mail	trademarks@wsgr.com, jslafsky@wsgr.com, sbrannen@wsgr.com
Signature	/John L. Slafsky/
Date	04/17/2015
Attachments	Dropbox Motion to Suspend Pending Disposition of Civil Action.pdf(777756 bytes)

THRU INC.,)	
)	Opposition No: 91219070 (parent)
Opposer/Petitioner,)	Cancellation No.: 92058621
)	
v.)	
)	
DROPBOX, INC.,)	Serial No. 85012206
)	Registration No. 4478345
Applicant/Registrant.)	
)	
)	

Pursuant to TBMP § 510.02 and 37 C.F.R. § 2.117(a), Applicant/Registrant Dropbox, Inc. (“Dropbox”) moves that the instant opposition and cancellation proceedings be suspended pending the final determination of a pending civil action involving Dropbox and Opposer/Petitioner Thru Inc. (“Thru”), which will have a direct bearing on this proceeding.

1. On April 17, 2015, Dropbox commenced a civil action, captioned as *Dropbox, Inc. v. Thru Inc.*, in the United States District Court for the Northern District of California (Civ. No. 3:15-cv-01741) (the “Civil Action”). A copy of the Complaint from the Civil Action is attached as Exhibit A.



1

the mark DROPBOX. Determination of the Civil Action will implicate issues of priority and likelihood of confusion, which form the basis for the instant proceeding.

3. In sum, the issues for determination in this proceeding are squarely before the district court in the Civil Action. The district court's determination of such issues will be binding upon the Board. In view of the foregoing, Dropbox respectfully requests that the Board exercise its discretion to suspend the instant proceeding pending the final determination of the Civil Action.

Dated: April 17, 2015

WILSON SONSINI GOODRICH & ROSATI
A Professional Corporation

By:  
John L. Slafsky
Stephanie S. Brannen

Attorneys for Applicant/Registrant
DROPBOX, INC.

Please address all communications concerning this proceeding to:

John L. Slafsky
Stephanie S. Brannen
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650 Page Mill Road
Palo Alto, California 94304-1050
Telephone: (650) 493-9300
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trademarks@wsgr.com

CERTIFICATE OF SERVICE BY MAIL

I, Elvia Minjarez, declare:

I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence would be deposited with the United States Postal Service on this date.

On this date, I served **DROPBOX'S MOTION TO SUSPEND PENDING DISPOSITION OF CIVIL ACTION** on each person listed below, by placing the document described above in an envelope addressed as indicated below, which I sealed. I placed the envelope for collection and mailing with the United States Postal Service on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

John M. Cone
Hitchcock Evert LLC
P.O. Box 131709
Dallas, TX 75313-1709

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on April 17, 2015.


Elvia Minjarez

EXHIBIT A

DAVID H. KRAMER, State Bar No. 168452
 JOHN L. SLAFSKY, State Bar No. 195513
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Attorneys for Plaintiff
 DROPBOX, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

DROPBOX, INC., a Delaware corporation,)	Case No.
)	
Plaintiff,)	COMPLAINT FOR
)	DECLARATORY RELIEF
v.)	
)	DEMAND FOR JURY TRIAL
THRU INC., a Delaware corporation,)	
)	
Defendant.)	

Plaintiff Dropbox, Inc. (“Dropbox”) brings this Complaint against defendant Thru Inc. (“Thru” or “Defendant”) and alleges, on personal knowledge as to its own actions and on information and belief as to the actions of others, as follows:

THE PARTIES

1. Dropbox is a Delaware corporation with its principal place of business at 185 Berry Street, Suite 400, San Francisco, California. Dropbox provides software and services relating to online hosting, storage, and synchronization of data, documents, and other content.

2. Thru Inc. (“Thru”) is a Delaware corporation with its principal place of business at 909 Lake Carolyn Parkway, Irving, Texas. Thru holds itself out as a provider of enterprise file sharing and collaboration services.

3. Dropbox brings this action for declaratory relief to protect its valuable and well-known brand against groundless trademark threats by Thru. Dropbox has longstanding, strong, and well-recognized rights to the DROPBOX trademark. Thru has nonetheless (1) asserted that it has superior rights to the DROPBOX mark; (2) repeatedly accused Dropbox of trademark infringement; (3) initiated two proceedings at the United States Patent and Trademark Office (“USPTO”) to invalidate Dropbox’s federal trademark registration for the DROPBOX mark and to oppose Dropbox’s separately filed trademark application for the DROPBOX mark; (4) declared its intention to “obtain the [DROPBOX] mark”; and (5) threatened that, absent concessions from Dropbox, it will “exercise all options to take advantage of maximizing the value of the [trademark] asset.”

4. Accordingly, Dropbox seeks a declaration that its use and registration of the trademark DROPBOX do not, and will not, infringe upon or otherwise violate Thru’s purported trademark rights.

JURISDICTION AND VENUE

5. This court has original jurisdiction over the claim for declaratory relief under 28 U.S.C. §§ 2201 and 2202 (the Declaratory Judgment Act) and 15 U.S.C. § 1051 et seq. (the Trademark Act), as well as under 28 U.S.C. §§ 1331 and 1338, because Dropbox brings the action to determine a question of actual controversy between the parties arising under the trademark laws of the United States.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this complaint occurred in this judicial district. Dropbox is informed and believes, and therefore alleges, that venue is also proper because Thru resides in this judicial district within the meaning of 28 U.S.C. § 1391(c).

INTRA-DISTRICT ASSIGNMENT

7. This is an Intellectual Property Action and thus may be assigned to a division of the Court on a district-wide basis.

BACKGROUND

The DROPBOX Brand

8. Dropbox has, without interruption since at least as early as 2008, used the mark DROPBOX in commerce to promote its software and services to users in the United States and around the world.

9. Dropbox is the owner of the Internet domain name <dropbox.com>, where Dropbox hosts a website prominently featuring the DROPBOX mark. Dropbox also uses the DROPBOX mark with its popular software application or “app,” which is available for download via various online stores.

10. Dropbox’s software and services use the Internet to enable the easy storage, synchronization, and sharing of electronic files. Users who download Dropbox’s software to their computers, tablets, or mobile phones can save files – such as documents, photos, and videos – to designated folders, and these files automatically are synced to the users’ other devices and are accessible from the <dropbox.com> website. With Dropbox’s software, users can access their files anywhere there is Internet access.

11. Dropbox is the owner of a federal trademark registration for the mark DROPBOX in connection with the following goods and services:

- “Computer software and downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of life sciences research or software for uploading or transferring advertising programs and media advertising communications” in International Class 9;
- “Storage of electronic media, namely, data, documents, files, text, photos, images, graphics, music, audio, video, and multimedia content” in International Class 39; and
- “Providing temporary use of non-downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of biomedical research or software for uploading or transferring advertising programs and media advertising communications; hosting of digital content on the internet” in International Class 42.

1 The application for this registration was filed on September 1, 2009 and assigned Serial No.
 2 77817716. The registration issued on February 4, 2014. A true and correct copy of the Certificate
 3 of Registration for Reg. No. 4478345 (the “Registration”) is attached hereto as Exhibit A and
 4 incorporated by reference.

5 12. Thru did not oppose Dropbox’s application for the Registration at the USPTO.
 6 However, three other claimants initiated opposition proceedings before the USPTO’s Trademark
 7 Trial and Appeal Board, each claiming superior rights to the DROPBOX mark. Each of these
 8 trademark oppositions was ultimately terminated.

9 13. In connection with one of the oppositions to Dropbox’s trademark application,
 10 Dropbox acquired additional rights to the DROPBOX mark from a claimant, Officeware
 11 Corporation. These additional trademark rights are also senior to those now asserted by Thru, and
 12 include a federal trademark application for the mark DROPBOX in connection with the following
 13 services:

- 14 • “Providing online non-downloadable software for uploading and transferring files for the
 15 purpose of file back up and synchronization, not including software for uploading or
 16 transferring advertising programs and media advertising communications” in
 International Class 42.

17 This application was filed on April 12, 2010 and has been assigned Serial No. 85012206. A true
 18 and correct copy of the application from the USPTO’s TSDR database is attached hereto as
 19 Exhibit B and incorporated by reference.

20 14. Dropbox also owns common-law rights to the following design incorporating the
 21 DROPBOX mark:



22
 23
 24
 25
 26 15. Dropbox has enjoyed extraordinary commercial success. There are now over 300
 27 million registered users of Dropbox’s software and services, uploading over one billion files every
 28 day. Over four million businesses use Dropbox’s software and services, including 97% of Fortune

1 500 companies. Dropbox's software "app" has been downloaded well over a hundred million
2 times from the online stores the Apple App Store and Google Play.

3 16. Dropbox's DROPBOX mark has been featured in prominent news reports and
4 articles (*The New York Times*, *The Los Angeles Times*, *The Wall Street Journal*, *San Jose Mercury*
5 *News*, *San Francisco Chronicle*, *Bloomberg*, *Reuters*, *FORTUNE*, *Forbes*, *Business Week*, *Time*,
6 *USA Today*, etc.) as well as on national television networks.

7 17. Over 90% of the top 100 search results for the term "dropbox" via the Google
8 search engine return information specifically related to Dropbox.

9 18. As a result of the success of Dropbox's software and services, when members of
10 the general public see or hear the mark DROPBOX, they associate it with Dropbox's software and
11 services.

12 19. Dropbox's rights to the DROPBOX mark are senior to those now claimed and
13 asserted by Thru.

14 20. Dropbox intends to continue using the DROPBOX mark in connection with its
15 software and services.

16 **Thru's Sham Assertion of Purported Trademark Rights**

17 21. On November 17, 2011, more than three years after Dropbox adopted the
18 DROPBOX mark, more than two years after the filing of Dropbox's first trademark application,
19 and long after Dropbox's mark had become well known in the marketplace, Thru filed with the
20 USPTO an application for the mark DROPBOX in connection with the following goods and
21 services:

- 22 • "Downloadable computer software for uploading, transferring, downloading, storing, and
23 sharing data, documents, files, information, text, photos, images, graphics, music, audio,
24 video, and multimedia content with others via networks, mobile telephones, and other
communications" in International Class 9.
- 25 • "Storage of data, documents, files, information, text, photos, images, graphics, music,
26 audio, video, and multimedia content" in International Class 39.
- 27 • "Providing on-line non-downloadable software for uploading, transferring, downloading,
28 storing, and sharing data, documents, files, information, text, photos, images, graphics,
music, audio, video, and multimedia content with others via networks, mobile telephones,
and other communications" in International Class 42.

1 This application has been assigned Serial Number 85475272. It has been suspended by the
2 USPTO.

3 22. Following the extraordinary commercial success and popularity of Dropbox's
4 software and services, Thru manipulated its use of the term "dropbox" to manufacture the
5 appearance of trademark rights in the hope of extracting a windfall payoff from Dropbox. In
6 particular, at or around the time it filed its trademark application, Thru began to increase markedly
7 its use of the word "dropbox" on its website and elsewhere in a belated effort to project the
8 appearance of rights to a "dropbox" trademark and to concoct evidence for legal proceedings
9 against Dropbox.

10 23. Thru attempted to create an impression of confusion by explicitly cautioning
11 customers that its offerings were "[n]ot to be confused with the consumer application,
12 Dropbox™." On information and belief, Thru's reference to "the consumer application,
13 Dropbox™," with trademark attribution, was not to Thru, but to Dropbox's popular software
14 "app."

15 24. Thru altered the manner and frequency of its use of the word "dropbox" to attempt
16 to improve its position as a late-comer to the various challenges to the DROPBOX mark before
17 the USPTO.

18 25. Following the filing of its trademark application, and in the midst of the challenges
19 against Dropbox before the USPTO, Thru's attorney sent a letter to Dropbox's attorney stating
20 that Thru was aware of the various disputes involving the DROPBOX mark and asserting that
21 Thru's rights in the mark had priority over those of other claimants. From December 2011 until
22 March 2012, Dropbox engaged in discussions with Thru, but then Thru stopped responding.

23 26. Well over a year later, during which time Dropbox continued to invest in and grow
24 the DROPBOX brand, Thru resumed its claims and demands against Dropbox. Thru's attorney
25 contacted Dropbox's attorney, noting Dropbox's success in overcoming the oppositions before the
26 USPTO and continuing to allege Thru's superior rights to the DROPBOX mark.

27 27. On February 4, 2014, Thru petitioned the USPTO to cancel the Registration on the
28 basis that there is a likelihood of confusion between Thru's purported mark and Dropbox's mark.

1 A copy of Thru's Petition for Cancellation is attached hereto as Exhibit C and incorporated herein.
 2 In its petition, Thru claims that it has priority over Dropbox's rights in the DROPBOX mark, and
 3 that it "is damaged by" the Registration, which it argues is "a potential obstacle to Thru's right to
 4 use and register the mark DROPBOX for its services."

5 28. Thru persisted with further threats and demands against Dropbox. For example, on
 6 May 19, 2014, Thru's attorney stated that if resolution "cannot be done in a reasonable amount of
 7 time" then Thru would "exercise all options to take advantage of maximizing the value of the
 8 asset."

9 29. On October 28, 2014, Thru filed with the USPTO an opposition to Dropbox's
 10 trademark application Serial No. 85012206. Thru bases this opposition on the same grounds as its
 11 petition to cancel Dropbox's Registration, namely, that "Applicant's mark DROPBOX, when used
 12 for the services of the Application . . . so resembles Thru's mark DROPBOX as to be likely to
 13 cause confusion or to cause mistake or to deceive." A copy of Thru's Notice of Opposition is
 14 attached hereto as Exhibit D and incorporated by reference.

15 30. As described above, Thru has engaged in a deliberate effort to create the illusion of
 16 rights to the DROPBOX mark while issuing repeated threats and attacks against Dropbox's
 17 increasingly valuable DROPBOX brand. Accordingly, Dropbox files this complaint to affirm its
 18 rights.

19 **FIRST CLAIM FOR RELIEF**

20 **(Declaratory Relief)**

21 31. Dropbox realleges and incorporates by reference the allegations of the preceding
 22 paragraphs as though fully set forth herein.

23 32. As a result of the actions and statements of Thru, which include allegations of
 24 trademark infringement and challenges to Dropbox's commercial use of the DROPBOX mark,
 25 there is an actual controversy between Dropbox and Thru as to the parties' rights and legal
 26 relations associated with each party's use of the DROPBOX mark. Under all of the
 27 circumstances, an immediate, real and substantial controversy exists between the parties, who
 28 have adverse legal interests.

1 33. Dropbox has used and intends to continue to use the DROPBOX mark in interstate
2 commerce.

3 34. Thru's position is that Dropbox has made use of the mark DROPBOX in a manner
4 justifying Thru to sue Dropbox immediately for trademark infringement and other legal violations.

5 35. Dropbox's use of the DROPBOX mark does not infringe on, dilute, or violate any
6 federal or state trademark, trade name, or related rights of Thru.

7 36. Dropbox's use of the DROPBOX mark will not infringe on, dilute, or violate any
8 federal or state trademark, trade name, or related rights of Thru.

9 37. Dropbox's rights to the DROPBOX mark are superior to the rights that Thru now
10 alleges.

11 38. An actual justiciable controversy within the meaning of 18 U.S.C. § 2201 exists
12 between Dropbox and Thru concerning the use of the DROPBOX mark and the respective
13 trademark rights of the parties. A judicial determination is necessary and appropriate at this time
14 in order to resolve the issues of the trademark rights of Dropbox and the conflicting claims of
15 Thru, and in order that the parties may ascertain their respective rights and obligations if any.

16 39. Dropbox does not engage in any activities that harm or threaten any lawful rights
17 of Thru and is entitled to a declaration to that effect in this action.

18 **PRAYER FOR RELIEF**

19 Dropbox prays for judgment as follows:

20 (a) That this Court declare that Dropbox's use and registration of the DROPBOX mark
21 do not infringe upon, dilute, or otherwise violate any valid right of Thru under applicable federal
22 or state law.

23 (b) That this Court declare that Dropbox's rights in the DROPBOX mark are superior
24 to the rights Thru alleges.

25 (c) That this Court declare that Dropbox's activities have not caused any harm to Thru
26 or unjust enrichment to Dropbox.

27 (d) That this Court declare that Dropbox is not liable to Thru.

1 (e) That, by way of further relief, this Court grant a permanent injunction enjoining and
2 restraining Thru and its officers, directors, agents, servants, employees, and attorneys, and those in
3 active concert or participation with them, from directly or indirectly charging infringement,
4 dilution, or other legal violation, or instituting any action for infringement, dilution, or other
5 violation of alleged rights of Thru in the term “dropbox” against Dropbox or any of Dropbox’s
6 agents, direct or indirect customers, or any person, by reason of the use or registration of
7 Dropbox’s DROPBOX mark.

8 (f) That this Court award to Dropbox its reasonable costs, disbursements, and
9 attorneys’ fees incurred in defending its rights to the DROPBOX mark against the claims and
10 allegations of Thru.

11 (g) That this Court grant such other and further relief as this Court may deem just and
12 proper.

13 Dated: April 17, 2015

14 WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

15
16 By: /s/ John L. Slafsky
17 DAVID H. KRAMER
18 JOHN L. SLAFSKY
STEPHANIE S. BRANNEN

19 Attorneys for Plaintiff
20 DROPBOX, INC.
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25
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27
28

DEMAND FOR JURY TRIAL

Dropbox hereby demands trial by jury of all issues triable by a jury.

Dated: April 17, 2015

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: /s/ John L. Slafsky
DAVID H. KRAMER
JOHN L. SLAFSKY
STEPHANIE S. BRANNEN

Attorneys for Plaintiff
DROPBOX, INC.

EXHIBIT A

United States of America
United States Patent and Trademark Office

DROPBOX

Reg. No. 4,478,345

Registered Feb. 4, 2014

Int. Cls.: 9, 39, and 42

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

DROPBOX, INC. (DELAWARE CORPORATION)
185 BERRY ST.
SUITE 400
SAN FRANCISCO, CA 94107

FOR: COMPUTER SOFTWARE AND DOWNLOADABLE COMPUTER SOFTWARE USED TO STORE AND SHARE DATA, DOCUMENTS, FILES, INFORMATION, TEXT, PHOTOS, IMAGES, GRAPHICS, MUSIC, AUDIO, VIDEO, AND MULTIMEDIA CONTENT WITH OTHERS VIA GLOBAL COMPUTER NETWORKS, MOBILE TELEPHONES, AND OTHER COMMUNICATIONS NETWORKS FOR THE PURPOSE OF FILE BACK UP AND SYNCHRONIZATION, NOT INCLUDING SOFTWARE FOR USE IN DATABASE MANAGEMENT IN THE FIELD OF LIFE SCIENCES RESEARCH OR SOFTWARE FOR UPLOADING OR TRANSFERRING ADVERTISING PROGRAMS AND MEDIA ADVERTISING COMMUNICATIONS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-11-2008; IN COMMERCE 3-11-2008.

FOR: STORAGE OF ELECTRONIC MEDIA, NAMELY, DATA, DOCUMENTS, FILES, TEXT, PHOTOS, IMAGES, GRAPHICS, MUSIC, AUDIO, VIDEO, AND MULTIMEDIA CONTENT, IN CLASS 39 (U.S. CLS. 100 AND 105).

FIRST USE 3-11-2008; IN COMMERCE 3-11-2008.



Michelle K. Lee
Deputy Director of the United States
Patent and Trademark Office

FOR: PROVIDING TEMPORARY USE OF NON-DOWNLOADABLE COMPUTER SOFTWARE USED TO STORE AND SHARE DATA, DOCUMENTS, FILES, INFORMATION, TEXT, PHOTOS, IMAGES, GRAPHICS, MUSIC, AUDIO, VIDEO, AND MULTIMEDIA CONTENT WITH OTHERS VIA GLOBAL COMPUTER NETWORKS, MOBILE TELEPHONES, AND OTHER COMMUNICATIONS NETWORKS FOR THE PURPOSE OF FILE BACK UP AND SYNCHRONIZATION, NOT INCLUDING SOFTWARE FOR USE IN DATABASE MANAGEMENT IN THE FIELD OF BIOMEDICAL RESEARCH OR SOFTWARE FOR UPLOADING OR TRANSFERRING ADVERTISING PROGRAMS AND MEDIA ADVERTISING COMMUNICATIONS; HOSTING OF DIGITAL CONTENT ON THE INTERNET, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 3-11-2008; IN COMMERCE 3-11-2008.

Reg. No. 4,478,345 THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-817,716, FILED 9-1-2009.

BRIAN CALLAGHAN, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

EXHIBIT B

PTO Form 1478 (Rev 9/2006)

OMB No. 0651-0009 (Exp 12/31/2011)

Trademark/Service Mark Application, Principal Register**Serial Number: 85012206****Filing Date: 04/12/2010****The table below presents the data as entered.**

Input Field	Entered
SERIAL NUMBER	85012206
MARK INFORMATION	
*MARK	DROPBOX
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	DROPBOX
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Officeware Corporation
DBA/AKA/TA/Formerly	DBA FilesAnywhere.com
INTERNAL ADDRESS	Suite 220
*STREET	8600 Freeport Parkway
*CITY	Irving
*STATE (Required for U.S. applicants)	Texas
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	75063
LEGAL ENTITY INFORMATION	
TYPE	corporation

STATE/COUNTRY OF INCORPORATION	Texas
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	042
*IDENTIFICATION	Providing online non-downloadable software for uploading and transferring files
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 08/04/2004
FIRST USE IN COMMERCE DATE	At least as early as 08/04/2004
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT10\IMAGEOUT 10\850\122\85012206\xml1\APP0003.JPG
SPECIMEN DESCRIPTION	screen shots
ATTORNEY INFORMATION	
NAME	Remy M. Davis
ATTORNEY DOCKET NUMBER	503667.1
FIRM NAME	Thompson & Knight LLP
INTERNAL ADDRESS	Suite 1500
STREET	1722 Routh Street
CITY	Dallas
STATE	Texas
COUNTRY	United States
ZIP/POSTAL CODE	75201
PHONE	214-969-1700
FAX	214-969-1751
OTHER APPOINTED ATTORNEY	Bruce Sostek and Deborah L. Lively and Murali K. Pasupulati
CORRESPONDENCE INFORMATION	
NAME	Remy M. Davis
FIRM NAME	Thompson & Knight LLP
INTERNAL ADDRESS	Suite 1500

STREET	1722 Routh Street
CITY	Dallas
STATE	Texas
COUNTRY	United States
ZIP/POSTAL CODE	75201
PHONE	214-969-1700
FAX	214-969-1751
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
* SIGNATORY FILE	\\TICRS\EXPORT10\IMAGEOUT10\850\122\85012206\xml1\APP0004.JPG
SIGNATORY'S NAME	Timothy M. Rice
SIGNATORY'S POSITION	President and CEO

Trademark/Service Mark Application, Principal Register

Serial Number: 85012206

Filing Date: 04/12/2010

To the Commissioner for Trademarks:

MARK: DROPBOX (Standard Characters, see [mark](#))

The literal element of the mark consists of DROPBOX.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Officeware Corporation, DBA FilesAnywhere.com, a corporation of Texas, having an address of

Suite 220,
8600 Freeport Parkway
Irving, Texas 75063
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 042: Providing online non-downloadable software for uploading and transferring files

In International Class 042, the mark was first used at least as early as 08/04/2004, and first used in commerce at least as early as 08/04/2004, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) screen shots.

[Specimen File 1](#)

The applicant's current Attorney Information:

Remy M. Davis and Bruce Sostek and Deborah L. Lively and Murali K. Pasupulati of Thompson & Knight LLP

Suite 1500
1722 Routh Street
Dallas, Texas 75201
United States

The attorney docket/reference number is 503667.1.

The applicant's current Correspondence Information:

Remy M. Davis
Thompson & Knight LLP
Suite 1500

1722 Routh Street
Dallas, Texas 75201
214-969-1700(phone)
214-969-1751(fax)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

Signatory's Signature: [signatory file](#)
Signatory's Name: Timothy M. Rice
Signatory's Position: President and CEO

RAM Sale Number: 5738
RAM Accounting Date: 04/13/2010

Serial Number: 85012206
Internet Transmission Date: Mon Apr 12 19:30:57 EDT 2010
TEAS Stamp: USPTO/BAS-168.75.201.254-201004121930570
17962-85012206-46039f4fc8c5fb5facba2fb94
63973861-DA-5738-20100412192811937647

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Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051 (b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature Section:Signature: Signatory's Name: Timothy M. RiceSignatory's Position: CEO/PresidentDate Signed: 3/26/10

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the boilerplate declaration language. Do **not** include the entire application, but do ensure that the boilerplate declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the boilerplate declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.

EXHIBIT C

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA585606**Filing date: **02/04/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Thru, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	909 Lake Carolyn Parkway Suite 750 Irving, TX 75039 UNITED STATES		
Attorney information	John M. Cone Hitchcock Evert LLC P.O. Box 131709 Dallas, TX 75313-1709 UNITED STATES jcone@hitchcockevert.com, docket@hitchcockevert.com Phone:214 880 7002		

Registration Subject to Cancellation

Registration No	4478345	Registration date	02/04/2014
Registrant	DROPBOX, INC. 185 Berry St. San Francisco, CA 94107 GERMANY		


Goods/Services Subject to Cancellation

Class 009. First Use: 2008/03/11 First Use In Commerce: 2008/03/11 All goods and services in the class are cancelled, namely: Computer software and downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of life sciences research or software for uploading or transferring advertising programs and media advertising communications
Class 039. First Use: 2008/03/11 First Use In Commerce: 2008/03/11 All goods and services in the class are cancelled, namely: Storage of electronic media, namely, data, documents, files, text, photos, images, graphics, music, audio, video, and multimedia content
Class 042. First Use: 2008/03/11 First Use In Commerce: 2008/03/11 All goods and services in the class are cancelled, namely: Providing temporary use of non-downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of biomedical research or software for uploading or transferring advertising programs and media advertising communications; hosting of digital content on the internet

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85475272	Application Date	11/17/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DROPBOX		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2004/05/11 First Use In Commerce: 2004/05/11 Downloadable computer software for uploading, transferring, downloading, storing, and sharing data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via networks, mobiletelephones, and other communications</p> <p>Class 039. First use: First Use: 2004/05/11 First Use In Commerce: 2004/05/11 Storage of data, documents, files, information, text, photos, images, graphics,music, audio, video, and multimedia content</p> <p>Class 042. First use: First Use: 2004/05/11 First Use In Commerce: 2004/05/11 Providing on-line non-downloadable software for uploading, transferring, downloading, storing, and sharing data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via networks, mobile telephones, and other communications</p>		

Attachments	85475272#TMSN.jpeg(bytes) 140204 Petition to Cancel.pdf(11792 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ John M. Cone
Name	John M. Cone
Date	02/04/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 4,478,345 DROPBOX

<hr/>	§	
THRU INC.,	§	
Petitioner,	§	
	§	
v.	§	Cancellation Proceeding No. _____
	§	
DROPBOX, INC.,	§	
Registrant.	§	
<hr/>	§	

TO THE HONORABLE TRADEMARK TRIAL AND APPEAL BOARD

**PETITION TO CANCEL REGISTRATION
NO. 4,478,345 DROPBOX**

Petitioner THRU INC. ("Thru") in support of its petition to cancel Registration No. 4,478,345 DROPBOX would show the Board as follows:

1. The application for registration that resulted in Registration No. 4,478,345 was filed on September 1, 2009 and the registration recites a date of first use of the mark DROPBOX by the Registrant of March 11, 2008.

2. Long before either of these dates, Thru had started to use the trademark DROPBOX for the services identified in its application S.N. 85/475,272, namely, downloadable computer software for uploading, transferring, downloading, storing, and sharing data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via networks, mobile telephones, and other communications; storage of data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content; providing on-line non-downloadable software for uploading, transferring, downloading, storing, and sharing

data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via networks, mobile telephones, and other communications. Thru's rights in its mark DROPBOX have priority over any rights that Registrant may have in its mark DROPBOX.

3. Registrant's mark DROPBOX, when used for the services of Registration No. 4,478,345, namely, computer software and downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of life sciences research or software for uploading or transferring advertising programs and media advertising communications; storage of electronic media, namely, data, documents, files, text, photos, images, graphics, music, audio, video, and multimedia content; providing temporary use of non-downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of biomedical research or software for uploading or transferring advertising programs and media advertising communications; hosting of digital content on the internet, so resembles Thru's mark DROPBOX as to be likely to cause confusion or to cause mistake or to deceive.

4. Thru is damaged by Registration No. 4,478,345 remaining on the register as the registration is a potential obstacle to Thru's right to use and register the mark DROPBOX for its services.

5. Thru prays that Registration No. 4,478,345 be cancelled and for such other and further relief to which it may be entitled.

Dated: February 4, 2014

Respectfully submitted,

/s/ John M. Cone
John M. Cone
Hitchcock Evert LLP
P.O. Box 131709
Dallas, Texas 75313-1709
(214) 880-7002 Telephone
(214) 953-1121 Facsimile
jccone@hitchcockevert.com

ATTORNEY FOR PETITIONER
THRU INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of February 2014, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on the owner of record of the registration, Dropbox, Inc., at the address of record in the Office, namely:

185 Berry St. Suite 400
San Francisco CALIFORNIA 94107

With a copy to:

John L. Slafsky
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto CA 94304-1050
Attorney for Dropbox, Inc.

/s/ John M. Cone
John M. Cone

EXHIBIT D

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA635540**Filing date: **10/28/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Thru, Inc.		
Entity	Corporation	Citizenship	TEXAS
Address	909 Lake Carolyn Parkway Suite 750 Irving, TX 75039 UNITED STATES		

Attorney information	John M Cone Hitchcock Evert LLP P.O. Box 131709 Dallas, TX 75313-1709 UNITED STATES jcone@hitchcockevert.com, docket@hitchcockevert.com, jrackley@hitchcockevert.com Phone:214 880 7002
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Applicant Information

Application No	85012206	Publication date	10/28/2014
Opposition Filing Date	10/28/2014	Opposition Period Ends	11/27/2014
Applicant	DROPBOX, INC. 185 BERRY STREET, 4TH FLOOR SAN FRANCISCO, CA 94107 UNITED STATES		

Goods/Services Affected by Opposition


Class 042. First Use: 2004/08/04 First Use In Commerce: 2004/08/04
All goods and services in the class are opposed, namely: Providing online non-downloadable software for uploading and transferring files for the purpose of file back up and synchronization, not including software for uploading or transferring advertising programs and media advertising communications

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85475272	Application Date	11/17/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DROPBOX		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2004/05/11 First Use In Commerce: 2004/05/11 Downloadable computer software for uploading, transferring, downloading, storing, and sharing data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via networks, mobile telephones, and other communications</p> <p>Class 039. First use: First Use: 2004/05/11 First Use In Commerce: 2004/05/11 Storage of data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content</p> <p>Class 042. First use: First Use: 2004/05/11 First Use In Commerce: 2004/05/11 Providing on-line non-downloadable software for uploading, transferring, downloading, storing, and sharing data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via networks, mobile telephones, and other communications</p>
Related Proceedings	Cancellation No. 92058621
Attachments	<p>85475272#TMSN.png(bytes)</p> <p>141028 Notice of Opposition.pdf(17293 bytes)</p>

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ John M. Cone
Name	John M Cone
Date	10/28/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/012,206 DROPBOX

<u>THRU INC.,</u>	§	
Petitioner,	§	
	§	
v.	§	Opposition No. _____
	§	
DROPBOX, INC.,	§	
<u>Registrant.</u>	§	

TO THE HONORABLE TRADEMARK TRIAL AND APPEAL BOARD

**NOTICE OF OPPOSITION TO
APPLICATION S.N. 85/012,206 DROPBOX**

Opposer THRU INC. (“Thru”) in support of its opposition to application S.N. 85/012,206 DROPBOX (the “Application”) would show the Board as follows:

1. The Application was filed on April 12, 210 and the application recites a date of first use of the mark DROPBOX by the Applicant of August 4, 2004.
2. Long before either of these dates, Thru had started to use the trademark DROPBOX for the services identified in its application S.N. 85/475,272, namely, downloadable computer software for uploading, transferring, downloading, storing, and sharing data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via networks, mobile telephones, and other communications; storage of data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content; providing on-line non-downloadable software for uploading, transferring, downloading, storing, and sharing data, documents, files, information, text, photos, images, graphics, music, audio, video,

and multimedia content with others via networks, mobile telephones, and other communications. Thru's rights in its mark DROPBOX have priority over any rights that Applicant may have in its mark DROPBOX.

3. Applicant's mark DROPBOX, when used for the services of the Application, namely, providing online non-downloadable software for uploading and transferring files for the purpose of file back up and synchronization, not including software for uploading or transferring advertising programs and media advertising communications, so resembles Thru's mark DROPBOX as to be likely to cause confusion or to cause mistake or to deceive.

4. Thru is damaged by the Application as the application is a potential obstacle to Thru's right to use and register the mark DROPBOX for its services.

5. Thru prays that the Application be refused registration and for such other and further relief to which it may be entitled.

Dated: October 28, 2014

Respectfully submitted,

/s/ John M. Cone

John M. Cone
Hitchcock Evert LLP
P.O. Box 131709
Dallas, Texas 75313-1709
(214) 880-7002 Telephone
(214) 953-1121 Facsimile
jccone@hitchcockevert.com

ATTORNEY FOR PETITIONER
THRU INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of October 2014, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on the Attorney/Correspondent for the Applicant:

Susan L. Heller
GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900
Los Angeles CA 90067

With a copy to:

John L. Slafsky
WILSON SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto CA 94304-1050

/s/ John M. Cone
John M. Cone